


AGENDA ITEM #6  
September 25, 2007

**Introduction**

**MEMORANDUM**

September 20, 2007

TO: County Council

FROM: Jeffrey L. Zyontz,  Legislative Attorney

SUBJECT: Introduction – Zoning Text Amendment 07-14,  
Ripley/South Silver Spring Overlay Zone – Development Standards

Zoning Text Amendment (ZTA) 07-14 is being sponsored by Councilmember Ervin, Floreen, Leventhal, and Trachtenberg. The ZTA proposes to amend the definition of radio and television broadcast studio and to increase the building height allowed for buildings on CBD-2 zoned properties in the Ripley/South Silver Spring Overlay Zone.

The Ripley/South Silver Spring Overlay Zone covers a portion of the Silver Spring Central Business District. It is located south of the Silver Spring Metrorail station and west of Georgia Avenue but it does not include all of the area south of the station.

A public hearing on ZTA 07-14 is scheduled for October 30, 2007.

Zoning Text Amendment No: 07- 14  
Concerning: Ripley/South Silver  
Spring Overlay Zone – Development  
Standards  
Draft No. & Date: 4 – 9/17/07  
Introduced:  
Public Hearing:  
Adopted:  
Effective:  
Ordinance No:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF  
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

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By: Councilmembers Ervin, Floreen, Leventhal, and Trachtenburg

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- amend the definition of “radio and television broadcasting studio”,
- amend height standards in the Ripley/South Silver Spring Overlay zone,
- delete expired credit provisions, and
- generally amend provisions governing the Ripley/South Silver Spring Overlay zone.

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-C-2	“DEFINITIONS AND INTERPRETATION”
Section 59-A-2.1	“Definitions”
DIVISION 59-C-18	“OVERLAY ZONES”
Section 59-C-18.20	“Ripley/South Silver Spring Overlay Zone”
Section 59-C-18.202	“Regulations”
Section 59-C-18.203	“Methods of development”
Section 59-C-18.204	“Density of development”

**EXPLANATION:** ***Boldface** indicates a heading or a defined term.*  
*Underlining indicates text that is added to existing laws by the original text amendment.*  
*[Single boldface brackets] indicate text that is deleted from existing law by the original text amendment.*  
*Double underlining indicates text that is added to the text amendment by amendment.*  
*[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.*

*\* \* \* indicates existing law unaffected by the text amendment.*

*ORDINANCE*

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:*

**Sec. 1. Division 59-A-2 is amended as follows:**

**DIVISION 59-C-2. DEFINITIONS AND INTERPRETATION.**

**59-A-2.1. Definitions.**

\* \* \*

**Radio and television broadcasting studio:** A facility used [for the creation and production of] to create or produce radio, television, [and] or other electronic media programming. [This includes] A broadcasting studio may include studios, stages, editing facilities, post-production facilities, and equipment for program distribution and receipt via satellite, wire, or fiber optic cable. A radio and television broadcasting studio does not include a tower at the same location as the studio.

\* \* \*

**Sec. 2. Division 59-C-18 is amended as follows:**

**DIVISION 59-C-18. OVERLAY ZONES.**

\* \* \*

**59-C-18.20. Ripley/South Silver Spring Overlay Zone.**

\* \* \*

**59-C-18.202. Regulations.**

\* \* \*

(b) Development standards. The development standards are the same as those in the underlying zones, except:

- (1) Building height in the [Overlay Zone] overlay zone along Newell Street and Eastern Avenue that confronts a residential zone in the District of Columbia must not exceed a height of 45 feet. However, this building height may be increased to:
  - ~~[(i)]~~(A) a maximum of 90 feet for any building or portion of a building that is set back at least 60 feet from the street[,

or as allowed in 59-C-18.204(b), Transfer of  
Development Credits]; or

[(ii)] (B) a maximum of 125 feet for residential development  
that is set back at least 100 feet from Eastern Avenue and  
Newell Street[,] and [that] includes a public parking  
garage constructed under a General Development  
Agreement with [Montgomery] the County[, Maryland].

(2) The Planning Board may approve a maximum building height  
of 200 feet in any CBD-2 zoned optional method of  
development project that provides ground floor retail. Any  
structure or device used to collect or radiate electromagnetic  
waves, including a satellite dish, must not be included in  
calculating building height under this paragraph.

[(2)] (3) Parking must not be allowed in the front yard of [properties]  
any property fronting on Georgia Avenue [is prohibited].

[(3)] (4) The transfer of public use space to other properties [within]  
in the [Overlay Zone] overlay zone is allowed, and must be  
shown on an approved project plan or site plan for both the  
property transferring the public use space and the property  
receiving the public use space in accordance with Division 59-  
D-2 and 59-D-3. The public use space may only be transferred  
between property owners [in accordance with] under an  
agreement [as] approved by the [Montgomery County]  
Planning Board.

[(4)] (5) Costs associated with meeting the public use space offsite  
may be shared by multiple property owners.

54 [(5) Transfer of development credits may occur between properties  
55 within the overlay zone for Ripley/South Silver Spring.]

56 **59-C-18.203. Methods of [Development] development.**

57 (a) Standard method of development may be approved [in accordance  
58 with] under the standards of the underlying zone [provisions].

59 [(1)] The public use space requirement may be transferred to other  
60 properties [within] in this overlay zone if approved [by] in a site  
61 plan [in accordance with] under Division 59-D-3.

62 [(2) The transfer of development credits to other properties within  
63 the overlay zone may be allowed with approval of a site plan in  
64 accordance with Division 59-D-3.]

65 (b) Optional method of development may be approved [in accordance  
66 with] under the standards of the underlying zone [Zone provisions]  
67 except as modified by this overlay zone.

68 **59-C-18.204. Density of development.**

69 Development in the overlay zone may proceed under one of the following  
70 options:

71 (a) Underlying zone standards. Except as [regulated] modified by this  
72 overlay zone, development may proceed under the standards of the  
73 underlying CBD Zone, in accordance with [the provisions of Sec.]  
74 Section 59-C-6.23.

75 [(b) Development credits. A development credit, in square feet of gross  
76 floor area, may be established with the demolition of a building before  
77 August 24, 2002 that exceeds the amount of floor area allowed under  
78 the standard method of development in this Overlay Zone. A  
79 development credit may be retained for purposes of reconstruction on  
80 the property generating the development credit, or transferred and

used for new construction on any property in this Overlay Zone provided the property to which any development credit is transferred does not confront a one-family zone. Use of a development credit either on property generating the development credit or on another property using the development credit must be submitted before August 24, 2007 and must be shown on either:

- (1) a site plan approved under Division 59-D-3 for standard method development of a property receiving a development credit. The development credit must not exceed 50% of the FAR allowed for the receiving property under the standard method of development; or
- (2) a project plan approved under Division 59-D-2. A project plan may exceed the allowable maximum FAR of the underlying zone.

(c) 100% of a development credit may be retained by the property generating the development credit and may be utilized by the generating property and other property shown with the generating property on a project plan approved under Division 59-D.2.

(d) A development credit to be transferred must be established and attached to a property only by means of documents, including an easement and appropriate releases, in a recordable form approved by the Planning Board. Any easement must:

- (1) limit future construction of the property that transfers the development credit to the amount of gross square feet of the demolished building minus all development credits transferred;
- (2) indicate the amount of development credit, in gross square feet to be transferred;

(3) indicate the maximum gross square feet of future development for the property that transfers the development credit, but no less than the amount that could be constructed on the property under the standard method of development; and

(4) be recorded in the land records of Montgomery County.]

[(e)] (b) Any building constructed [pursuant to] that satisfies a project plan or site plan approved under this Section is a conforming structure and may be repaired or reconstructed [in accordance with] under the conditions of the approved project plan or site plan.

[(f)] (c) Any building for which a valid building permit was issued before February 1, 2000 [approval of the Ripley/South Silver Spring Overlay Zone Sectional Map Amendment,] is a conforming building and may be altered, repaired, or reconstructed under the standards of the zone in effect [at the time] when the building was constructed, except:

(1) If the building exceeds the standards of the underlying zone, any alteration, repair, or reconstruction of the building must not increase the gross floor area or the height of the building above that which existed [as of the date of application of the Ripley/South Silver Spring Overlay Zone] on February 1, 2000; or

(2) If the building does not exceed the standards of the underlying zone, any alteration, repair, or reconstruction of the building must conform to the standards of the underlying zone, except as may be further [regulated] modified by the Ripley/South Silver Spring Overlay Zone.

**Sec. 3. Effective date.** This ordinance takes effect 20 days after the date of Council adoption.



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136 This is a correct copy of Council action.

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139 Linda M. Lauer, Clerk of the Council

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Resolution No:  
Introduced: September 25, 2007  
Adopted: September 25, 2007

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS A DISTRICT COUNCIL FOR THAT PORTION  
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT  
WITHIN MONTGOMERY COUNTY, MARYLAND

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By: District Council

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Subject: Notice of Public Hearing on Zoning Text Amendment 07-14

Background

1. Section 59-H-9.3 of the Montgomery County Ordinance requires that, within thirty days of introduction of any text amendment, the Council act by resolution to set a date and time for public hearing on the proposed amendment.
2. Zoning Text Amendment No. 07-14, which would amend the Zoning Ordinance to change the definition of radio and television broadcast studio and increase the height of buildings allowed in the Ripley/South Silver Spring Overlay Zone, was introduced on September 25, 2007.

Action

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland approves the following resolution:

Legal notice will be given of the public hearing to be held on October 30, 2007 at 1:30 p.m., in the Council Hearing Room, Stella Werner Council Office Building, Rockville, Maryland, for the purpose of giving the public an opportunity to comment on the proposed amendment.

This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council